

**Notice of Allowability**

Application No.

09/914,152

Examiner

Manjunath N. Rao, Ph.D.

Applicant(s)

NARIMATSU ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the communication filed on 4-20-05.
2. ☒ The allowed claim(s) is/are 2,5-25,29-31,33,38,48,49,53 and 54.
3. ☒ The drawings filed on 20 April 2005 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 4-20-05
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

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### **DETAILED ACTION**

Claims 2, 5-25, 29-31, 33, 38, 48-49, 53-54 are currently pending in this application.

#### ***Prosecution re-opened***

Prosecution was closed in the instant application by mailing of the Ex-parte Quayle action on 3-15-05 with all claims indicated as allowable except for the pending formal matters. In response applicant's paper filed on 4-20-05 addressing the formal matters has been considered and acknowledged that all formal matters have been resolved. However, the prosecution is re-opened herewith in order to correct minor errors in the claims and render them in condition for allowance.

### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Lawrence Perry on 6-27-05.

The application has been amended as follows:

- A) In claim 2, line 2, delete the phrase "represented by".
- B) In claim 5, line 5, delete the phrase "represented by".
- C) In claim 5, line 7, delete the phrase "represented by".

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- D) In claim 8, line 1, delete “harboring” and replace with “transformed with”.
- E) In claim 13, line 2, delete “harboring” and replace with “transformed with”.
- F) In claim 14, line 2, delete “harboring” and replace with “transfected with”.
- G) In claim 16, line 2, delete “harboring” and replace with “transfected with”.
- H) In claim 25, line 2, delete the phrase “represented by”.
- I) In claim 48, line 2, delete the phrase “represented by”.
- J) In claim 49, line 2, delete the phrase “represented by”.

***Allowable Subject Matter***

Claims 2, 5-25, 29-31, 33, 38, 48-49, 53-54 are allowed.

The following is an examiner’s statement of reasons for allowance: Following a diligent search it was determined that the prior art neither teaches nor suggests a polypeptide with SEQ ID NO:1 encoded by the polynucleotide with SEQ ID NO:2 as claimed in claims 2, 5-25, 29-31, 33, 38, 48-49, 53-54.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Manjunath N. Rao, Ph.D. whose telephone number is 571-272-0939. The Examiner can normally be reached on 7.00 a.m. to 3.30 p.m. If attempts to reach the

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examiner by telephone are unsuccessful, the Examiner's supervisor, Ponnathapura

Achutamurthy can be reached on 571-272-0928. The fax phone numbers for the organization where this application or proceeding is assigned is 571-273-8300 for regular communications and for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-1600.



Manjunath N. Rao, Ph.D.  
Primary Examiner  
Art Unit 1652

June 27, 2005